

THE HONORABLE RONALD B. LEIGHTON

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

DAVID NOEL SMITH and MAUREEN
ANNE SMITH,

Plaintiff,

vs.

JACQUELYN AUFDERHEIDE, ET AL,

Defendant.

Case No.: 07-5125RBL

ORDER

This matter comes before the Court on Plaintiff's Motions to Compel [Dkt ## 67; 69]. The Court has considered the written submissions of the parties and the record. For the reasons stated below, the Court GRANTS Plaintiff's Motion to extend the discovery cutoff, DENIES Plaintiff's Motions to Compel Answers to Interrogatories, and DENIES Plaintiff's Motion to strike Defendants' affirmative defenses.

I. Brief Discovery History

This case concerns allegations of employment discrimination by Kitsap County. [Dkt # 18] The case was removed from Mason County Superior Court on March 16, 2007 [Dkt # 1]. Initial disclosures were due by June 7, 2007, [Dkt # 3] and discovery was to be completed by January 14, 2008 [Dkt # 20]. After Plaintiff failed to comply with the initial disclosure requirements of Rule 26, [Dkt # 36] the trial date was reset [Dkt # 38]. Discovery motions were due by June 9, 2008, and discovery was to be completed by June 30. *Id.*

1 Two discovery disputes are before the Court today. First, a dispute arising out of the
2 depositions of Chris Endresen and Russell Hauge [Dkt # 67]. Both deponents' answers to
3 questions were limited by objections. The Court overruled some of Defendant's objections and
4 allowed the Plaintiff to renote the depositions for the sole purpose of asking those questions to
5 which Defendant was overruled and any follow-up questions [Dkt # 65]. Plaintiff then scheduled
6 that deposition to take place June 16 and 17 [Dkt # 67]. Defendant's counsel Cooley had
7 previously filed a notice of unavailability from June 16–July 4, 2008 [Dkt # 25].

8 Second, an ongoing dispute regarding Defendant's answers to some interrogatories and
9 requests for production [Dkt # 69]. Plaintiff propounded discovery requests which received
10 numerous general and specific objections. *See* Dkt ## 72-80. The parties have been disputing the
11 matter between themselves for some time and Plaintiff's current motion brings the question
12 before the Court [Dkt # 69].

13 14 **II. Analysis**

15 Plaintiff moves this Court to extend discovery to complete depositions of Chris Endresen
16 and Russell Hauge and to extend the cutoff date for dispositive motions until one month after
17 those depositions take place [Dkt # 67]. In its May 28 Order, the Court permitted further
18 deposition of Endresen and Hauge for the limited purpose of answering the questions on which
19 objections were overruled and any follow-up questions [Dkt # 65]. Those depositions did not
20 take place, in part, due to Defendant's own period of unavailability beginning shortly after the
21 Order was issued and extending beyond the discovery cutoff. For this reason, and consistent with
22 the Court's previous Order, the Court GRANTS Plaintiff's motion to extend discovery for that
23 limited purpose to take place within a reasonable time. Plaintiff's motion to extend the deadline
24 for dispositive motions is DENIED.

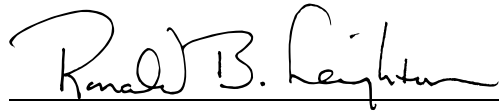
25 Plaintiff also moves this Court to compel answers to its interrogatories and requests for
26 production and that Defendants' affirmative defenses be stricken as a sanction. That Motion was
27 not filed until June 28, 2008, a date significantly later than the June 9 cutoff date for such
28 motions. Fed. R. Civ. P. 16, Dkt # 38. Due to its untimely nature, that motion is DENIED.

III. Decision

The Court GRANTS Plaintiff's Motion to extend the discovery period for the limited purpose outlined in its May 28 Order. The Court DENIES Plaintiff's Motion to Compel answers to interrogatories and DENIES Plaintiff's Motion to strike affirmative defenses as untimely.

IT IS SO ORDERED.

Dated this 16th day of July, 2008.

A handwritten signature in black ink, reading "Ronald B. Leighton". The signature is written in a cursive, flowing style. The first name "Ronald" is written with a large, stylized 'R'. The middle initial "B." is written with a large, stylized 'B'. The last name "Leighton" is written with a large, stylized 'L' and a trailing flourish.

RONALD B. LEIGHTON
UNITED STATES DISTRICT JUDGE